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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,227

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Marc Andre Peters

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EXAMINER

BHATIA, AJAY M

ART UNIT

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2445

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,227	<b>Applicant(s)</b> PETERS ET AL.	
	<b>Examiner</b> AJAY BHATIA	<b>Art Unit</b> 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,9,10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,9,10 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### ***Response to Arguments***

Applicant's arguments with respect to claims 4/20/2009 have been considered but are moot in view of the new ground(s) of rejection.

Note, claim objection is now present for claims 1 and 10, since the term CRID should not be abbreviated until after its first use. Also the oath request is maintained since a new oath is still needed.

### ***Claim Objections***

Claims 1 and 10 are objected to because of the following informalities: Applicant has used abbreviation with first stating what the abbreviation stand for. Appropriate correction is required; Applicant should spell out what CRID stands for.

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability as defined in 37 CFR 1.56."

Applicant has limited the oath/declaration to 1.56(a) which is incorrect. A new oath/declaration is required.

(this request is maintained since a new oath is still needed)

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5,9,10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koilke et al. (United States Patent Application Publication 2003/0120634) in view of Pugh et al. (United States Patent 6,658,423).

For claim 1, Koike teaches, a consumer electronic apparatus having a network connection for a Peer-to-Peer network and a digital recorder, and having an operational mode for querying the network about content programs recorded from a broadcast and by storage devices at remote peers connected to the Peer-to-Peer network, the programs having associated metadata descriptive of the programs, the metadata further including a respective CRID identifier uniquely identifying each of the programs, said apparatus comprising:

an interface for receiving a query from a user of the consumer electronic apparatus, the query containing keywords input by the user about a program the user queries on the Peer-to-Peer network; (Koike, paragraph 9, P2P, paragraph 10 content ID, paragraph 57, PC, terminal, PDA, paragraph 60, CRID)

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means for querying inventories of the storage devices, the metadata of the content available from peers on the Peer-to-Peer network being (Koike, paragraphs 88, 135, search)

Koike fails to clearly disclose, matched against the keywords entered;

and means for receiving returned information from the Peer-to-Peer network about the matching query results, and wherein query results having the same unique identifiers are clustered and represented as a single item to the user.

Pugh teaches, matched against the keywords entered; (Pugh, Col. 18 lines 25-55, figure 13, search query)

and means for receiving returned information from the Peer-to-Peer network about the matching query results, and wherein query results having the same unique identifiers are clustered and represented as a single item to the user. (Pugh, Col. 10 lines 25-62, clusters of duplicates)

Koike and Pugh are both in the field of searching

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine Koike and Pugh, by replacing the search feature Koike with that of Pugh, by integrating the search and result process to Koike it provides the added advantage of providing the user with less annoying search

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results, allowing the user to find what they are looking for more expeditiously. (Pugh, Col. 4 lines 29-35)

For claim 5, Koike-Pugh teaches, the consumer electronic apparatus of claim 1, having a further operational mode for downloading the programs from the Peer-to-Peer network. (Koike, paragraph 156, download)

For claim 9, Koike-Pugh teaches, the consumer electronic apparatus of claim 1 wherein for said single item the multiple identical ones among the plurality of query results are counted. (Pugh, Col. 18 lines 25-55, figure 13, search query, Col. 10 lines 25-62, clusters of duplicates)

For claim 10, Koike teaches, a method for use on a Peer-to-Peer network having an operational mode for querying the network about programs recorded by a consumer electronic apparatus via a digital recorder provided therewith and further storage devices connected to the Peer-to-Peer network from a broadcast, the programs having associated metadata descriptive of the programs, the metadata further including a respective CRID identifier uniquely identifying the programs, said method comprising the steps of:

receiving a query from a user of the consumer electronic apparatus, the query containing keywords about a program the user queries on the Peer-to-Peer network; (Koike, )

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performing matching contained in the received query and the metadata of the programs available from peers on the Peer-to-Peer network; (Koike, )

Koike fails to disclose, keywords

returning information about the matching query results to the user, and wherein the query results having the same unique identifiers are clustered and presented as a single item.

Pugh teaches, performing matching between the keywords contained in the received query and the metadata of the programs available (Pugh, Col. 18 lines 25-55, figure 13, search query)

returning information about the matching query results to the user, and wherein the query results having the same unique identifiers are clustered and presented as a single item(Pugh, Col. 10 lines 25-62, clusters of duplicates)

Koike and Pugh are both in the field of searching

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine Koike and Pugh, by replacing the search feature Koike with that of Pugh, by integrating the search and result process to Koike it provides the added advantage of providing the user with less annoying search

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results, allowing the user to find what they are looking for more expeditiously. (Pugh, Col. 4 lines 29-35)

For claim 13, Koike-Pugh teaches, the method of claim 10 further including counting, for the single item, the multiple identical ones among the plurality of query results. (Pugh, Col. 18 lines 25-55, figure 13, search query, Col. 10 lines 25-62, clusters of duplicates)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koike-Pugh as applied to claims 1, 5, 9, 10 and 13 above, and further in view of "Share it!" (IST-2000-28703) publicly available 11/30/2002.

For claim 4, Koike-Pugh fail to disclose, the consumer electronic apparatus of claim 1, comprising a digital recorder for recording broadcast programs.

"Share it!" teaches, the consumer electronic apparatus of claim 1, comprising a digital recorder for recording broadcast programs. ("Share it!", page 18, Recording broadcast)



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Koike-Pugh and "Share it!" are both in the field of TV anytime, (Koike, paragraph 60)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine Koike-Pugh and "Share it!", by adding recording to the devices described in Koike paragraph 57, this added in beneficial to the user since it will allow the user to record broadcast TV to be viewed at a more convenient time.

("Share it!" page 18, Recording)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of references cited (if appropriate).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJAY BHATIA whose telephone number is (571)272-3906. The examiner can normally be reached on M, T, H, F 9:00-3:30, Also please fax interview requests to 571-273-3906.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571)272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445